Mad. E.27—40,000—14-10-36.

Home (193 7) Department.

Ms. SERIES.

G.O. No. 4212

DATED 20th October 1937.

[Despatch Abstract.]

Prosecution - Circle Inspector of Excise. Mangalore - Sanction of Government - Refused.

To

The Local Government,

Government of Madras.

Through

The District Magistrate and Collector,

South Kanara;

Mangalore.

A. C. ANDRADE,
Son of Joachim Andrade,
Kavoor Village, Mangalore Taluk } .. Complainant. (Petitioner)

versus

Lieut. F. W. Borebank,
Circle Inspector of Excise,
Mangalore. } Counter-Petitioner. (Accused).

Application under Section 197 Criminal Procedure Code.

The Petitioner abovenamed begs to state as follows:-

1. On 4-5-1937 at about 5.30 a.m. when Petitioner was coming out of his house, some excise men with lights in their hands entered into his house and forcibly drove out his children into the yard. A little later 2 Excise Sub-Inspectors came there and they wanted to search petitioner's house. Petitioner refused to allow them to search his house without a search warrant and the presence of respectable persons from the locality. At about 7 a.m. the counter-petitioner came there with about 20 or 30

Excise peons and Sub-Inspectors, accompanied by petitioner's enemy Intru Monteiro, Piad Souza and one Shiva Shetty. The Excise peons brought with them four mud vessels and one jar and placed them in my yard. When petitioner objected to the placing of the pots in his yard, one of the Sub-Inspectors asked petitioner to shut up. Then the aforesaid Intru Monteiro and 4 or 5 Excise peons and a Sub-Inspector went away to the neighbouring Government forest.

2. The Counter-petitioner wanted to search petitioner's house. Petitioner said that he had no objection for his house being searched provided and if there was a search-warrant for the same and if there were respectable persons from the village to witness the search. The Counter-petitioner said that as he had come in person there was no need either for a search-warrant or for the respectable people of the Village and so saying, he roared and entered into petitioner's house accompanied by 2 Sub-Inspectors and five Excise peons. At that time petitioner asked his son to run up to Padavangadi and to fetch some respectable men. But the counter-petitioner ordered that all were under arrest and that none should stir out. Petitioner and his children were kept under the custody of some peons. The Counter-petitioner and his men searched petitioner's house for nearly three-fourth of an hour and did not find any contrabands.

3. Just at that time the afore-mentioned

Intru Monteiro and his companions returned to petitioner's yard from the forest, with 8 bottles in their hands and some dried cashew fruits in two baskets. They placed them in the yard of the petitioner. The Counter-petitioner then wrote something on a paper and told me that I should sign it and that he would deal with me with a very low compounding ~~etc~~ for. I refused to sign it unless it was read over to me and said that it was not fair on the part of a responsible officer like a Circle Inspector to do such high-handed things. At that time one of the Sub-Inspectors said "he knows too much of law, let us see whether he is going to sign it or not, drag him out into the yard'. Then three Excise peons caught ~~hard~~ hold of petitioner's hands and tried to drag petitioner. When petitioner was resisting, one of the Sub-Inspectors said "Give him well" At that time the said three peons beat petitioner severely with lathis and iron rods on the head, ear, hand, leg etc. Bleeding injuries were caused on the head and ear. Petitioner's wife and children cried out. Then petitioner's hands were tied at his back with the cloth which the petitioner was wearing on his body at the time, and was made to sit there in the hot sun. Petitioner was thereafter taken to Mangalore Circle Office and was locked up in a room. A sub-Inspector again asked petitioner to give his signature. Petitioner still refused. The Sub-Inspector then gave a slap to petitioner in the room and petitioner on account of the said blow became

unconscious and fell down.

4. At about 1.30 p.m. when petitioner regained consciousness, his hands were untied and he was taken to the Police Station. Petitioner stated to the Police that he had a complaint to make and showed the injuries inflicted on him by the Excise men. The Police refused to record petitioner's complaint and sent him to the hospital only at 7-30 p.m. after keeping him in the lock-up at the Station till that time. The Doctor examined petitioner and recorded the injuries found on his person. At 8 or 8-30 p.m. when petitioner was taken back to the Police Station from the hospital, he was released on bail.

5. The petitioner filed a complaint before the Stationary Sub Magistrate, Mangalore, against the Counter-petitioner and the three Excise peons under Sections 342 and 324 I.P. Code. In the complaint petitioner clearly stated that the offence committed by the Counter-petitioner consisted in his wrongfully restraining the petitioner by keeping him in custody, with his hands tied up, from about 8 a.m. till about 1-30 p.m. on that day though petitioner's name was well-known to the Counter-petitioner and his peons and Sub-Inspectors who were with him at the time and without accepting the surety offered by him.

6. The Counter-petitioner was all along

present at the scene when petitioner was being tied up and beaten mercilessly with lathis and iron rods by the Excise men because petitioner refused to give his signature to the Counter-petitioner and yet the Counter-petitioner did not utter a single word, but silently watched and abetted the crimes and that were being committed by the Excise men against this unfortunate petitioner.

7. The Stationary Sub-Magistrate dismissed the petitioner's complaint against the Counter-petitioner and also the other accused for want of sanction under Sec.197 Criminal Procedure Code against the Counter-Petitioner.

8. The petitioner filed a criminal revision petition No.7/1937 before the District Magistrate against the dismissal order of the Stationary Sub-Magistrate. The District Magistrate passed orders asking the Stationary Sub-Magistrate to proceed with the case. Accordingly the Stationary Sub-Magistrate took the complaint on file under Secs.324, 342 I.P.Code against the counter-petitioner in C.C.No.288/37 and posted it for trial on 20-8-1937 on which day the counter-petitioner filed a petition before the Stationary Sub-Magistrate requesting that he cannot be prosecuted without previous sanction from the Government of Madras under Sec.197(1) of the Criminal Procedure Code. The Stationary Sub-Magistrate has passed orders on the said petition that the complaint against the

counter-petitioner will not be proceeded with unless necessary sanction is obtained from Government.

9. The Counter-petitioner and his men being ~~were~~ men of position and influence have managed to win over the police to their side and have managed to lay a charge-sheet against the petitioner falsely charging petitioner with offences under Secs.353 and 201 I.P.Code. It is therefore necessary in the interest of justice that petitioner's complaint against the Counter-petitioner should also be prosecuted side by side with the Police charge-sheet which only will enable a Court to arrive at the right conclusion by shifting the evidence and when only justice will be vindicated.

10. A high-handed action of this nature committed by the Counter-petitioner and his men in the very presence of the Counter-petitioner, in broad day light ought not to go unenquired and in justice to the petitioner a judicial inquiry should be held in the matter. As the Counter-petitioner has put forward the plea that he was purporting to act in his official capacity to cover up his misdeeds, petitioner most humbly prays that in the interest of public justice the necessary sanction under Sec.197 Criminal Procedure Code may be accorded.

Sub-sec (b) of the Code not found up

Mangalore,
30th August 1937.

Petitioner.

Encls. 2.

7

Mangalore,

5-9-1937.

From

Lieut. F.W. Borebank C.B. & I (Birm).,

Inspector of Excise, Mangalore Circle,

Mangalore.

To

The Dt. Magistrate,

South Kanara,

Mangalore.

Sir,

Ref: Your Ref.C1-2346-M-37 dated 1-9-1937.

With reference to your C1-2346-M-37 dated 1-9-1937 I beg to report as follows:-

I submit herewith a copy of my report dated 4-5-37 to the Station House Officer, Mangalore for favour of perusal in addition to which I submit the following facts. On the day in question we had a party of nearly 50 Excise subordinates including Sub Inspectors and peons and it is surprising to find that only 3 peons and I alone have been accused of assault.

1. From a perusal of the complaint, which is clearly an afterthought and instigated, it will be seen that this complaint has been filed 6 days after the occurance, besides no mention has been made of the Inspector having assaulted the accused, but on the otherhand the allegation against him is only that he kept silent.

2. The complainant was found in illicit possession of 6 bottles of I.D. arrack by the two Sub Inspectors at 7 A.M. and detained till the Inspector's arrival. No peons entered the house as alleged in the complaint.

3. The Inspector came to the scene of offence only at 8 A.M. after inspecting another locality where a case had been detected by the Sub Inspector, Mangalore. The Inspector after finding a large quantity of spent wash behind the house of this complainant, showing signs of systematic distillation and after

recording his reasons in his confidential register (P.7) searched the house without a warrant according to rules. A complete still smelling I.D. of recent distillation without a perforated pot, instead of which a wet cloth could be used, was found inside the house. A P5 or search list was drawn up on the spot and attested by 2 respectable witnesses of the locality. Thus Cr.P.C. 103 was duly carried out.

p. 79 of the code - post up.

4. The assault on the Excise staff was never anticipated and the accused after arrest was allowed to wash his face and sit on a bench on the verandah of his house while the Inspector ate his chotahazri from his tiffin basket and the staff awaited some coffee from a hotel, which was more than a mile away.

See B at p 11 supra

5. One case was already mentioned supra was detected by the Sub Inspector, Mangalore range prior to this detection in the same locality and one Piada Souza was arrested in physical possession of 4 Gls. of wash, 1 jar of arrack and implements. It is surprising to find that this accused who was also brought along with the property and kept under guard in front of complainant's house before the assault, has not filed any complaint of assault or ill-treatment by the Departmental staff.

6. I submit a copy of the statement of the complainant wherein the Inspector has clearly recorded the following words of the complainant "I do not admit the offence. I am not prepared to sign this statement or give bail" which clearly proves that the actual words of the complainant were properly recorded. There was no necessity for Inspector to bring any pressure to bear on the accused because the statement does not contain an admission and therefore is not beneficial to the prosecution and hence there was no motive to compel him to sign the statement. The fact that he refused to sign has also been noted by the Inspector and witnessed by Sub Inspector Mr. M. Narayanan Nair of Mangalore Range. The complainant knows English.

p 13 infra

The statement referred to by the accused is the one at 'M' at p. 3 and it pre-supposes that the statement was read to the accused at p. 13 infra for which he refused to sign.

7. A copy of the search list wherein the articles seized in the kitchen of the complainant's house have been noted, is also submitted for perusal.

In 2

8. The case diary of the police may kindly be called for and perused. I think it may disclose the fact that neither the Inspector nor any one of the staff assaulted the complainant. The complainant is an old offender in Abk.C.R. 383/35-36 wherein he was arrested on house search for being in illicit possession of 2 Gls. of fermented wash by the late Inspector and fined Rs. 25/- in C.C. No. 148/36 on the file of the II Class Magistrate, Mangalore.

I beg to state that the complaint is false and as far as I believe instigated by others. The complainant if he had any real grievance had every opportunity of immediately preferring a complaint against the Departmental officers before the police, as he was sent in custody to the police station and subsequently bailed the same day. The 3 peons have been conveniently included as accused, out of a staff of nearly 50 present, because they were hurt by the complainant while trying to save Government property from being destroyed. They are the prosecution witnesses in the Government complaint charge-sheeted by the Police. I am also cited by the police as a prosecution witness.

I may mention that since I took charge of the circle there is an increase in detection of illicit distillation cases and consequently a proportionate increase in arrack consumption in the circle. At the last arrack sales the rentals have reached the figures of 1925, which is the highest on record. I therefore request the Dt. Magistrate to kindly take into consideration the above facts and protect us by addressing the local Government not to issue sanction for prosecution of the Inspector in such a false, frivolous and vexatious complaint.

Sd/- F.W. Borebank,
Inspector of Excise, Mangalore Circle

Copy submitted to the Assistant Commissioner of Excise, West Coast Sub-division, Cannanore.
do. Dy. Commissioner, Southern Division, Coimbatore.
(True copy)

For Dt. Magistrate.

4

Copy of the report to the Station House Officer, Mangalore by the Inspector of Excise, Mangalore Circle, dated 4.5.1937.

******

On 4.5.1937 at about 7 A.M. while on an Excise raid of Kavur village the Excise Sub Inspectors of Gurpur and Mulki ranges detained and produced A. C. Andrade son of Anjile Andrade of the above village for illicit possession of 27 drams of ----- cashew I.D. arrack. Subsequently I conducted a search of his house and seized a set of copper still except perforator and we found 4 maunds of spent wash of recent distillation behind his house. I arrested the accused and seized all the contrabands. All the above contrabands were kept in his front court yard and were guarded by Sub Inspectors and peons. The accused who was seated closeby in the front pial of his house suddenly took an iron rod that was lying closeby rushed towards the contrabands, with one stroke of the iron rod broke all the 6 bottles containing the arrack and brandishing the iron rod threatened the Sub Inspectors and peons there. By doing so he hit 3 peons namely 186 Vasu, 87 Purushanaik and acting peon Krishnan Nair of whom, acting peon Krishnan Nair of Suratkal range sustained visible injury. The injuries of the other two were not ------ visible. The Sub Inspectors and peons rushed to extract the iron rod from his hand and in the scuffle the accused fell down on the broken bottle pieces and got himself slightly scratched. The staff overpowered him and secured him.

B

As he had refused to furnish any surety I am sending him herewith in custody with the contrabands and the iron rod.

I request that necessary action may be taken against the accused for defying the authority, destroying the contrabands seized and assaulting the Government servants on duty.

Sd/- F. W. Borebank,
Inspector of Excise,
Mangalore Circle.

/True Copy/

Sd/- F. W. Borebank,
Inspector of Excise,
Mangalore Circle.

(True Copy)

For Dt.Magistrate.

13

Copy of the statement of the accused in Abkari C.R. 87 37-38

******

Name. A. C. Andrade.

Father's name. Anjilo Andrade.

Age, Caste, Calling: Old offender.

Residence. Kavur.

Height and marks. Old offender.

******

You were arrested on 4.5.1937 at 8 to 8.30 A.M. for illicit possession of a complete still inside your house without a perforated pot, and outside your house 6 bottles of I.D. cashew arrack 27 drams by Inspector on an open arrest & house search at Kavur, offence 12 punishable under section 55 (g) and 58 of Act I of 1886. You rushed out from your verandah while under arrest and with an iron rod knocked off the heads of the 6 bottles seized from you. The contraband seized from you was under the guard of the Excise staff. You assaulted peon Krishnan Nair and 2 other peons Vasu and Purushanaik. The contents of the 6 bottles broken by you were found on measurement in your ----- presence to be only 16½ drams of I.D. cashew arrack. This arrack was transferred to 3 other bottles and sealed in your presence. What do you plead in defence?

I do not admit the offence. I am not prepared to sign this statement or give bail.

Accused refused to sign.

Taken by me translated into Tulu and English language, read out and admitted correct.

Witness:- M. Narayanan Nair, S.I.C. 4.5.1937.

Sd/- F. W. Borebank,
Excise Inspector,
4.5.1937.

/True Copy/

Sd/- F. W. Borebank,
Inspector of Excise,
Mangalore Circle.

(True Copy)

14.8.37 For Dt. Magistrate.

15

Translation of the complaint of A. C. Andrade, dated 10.5.1937.

****

1. Mr. Borebanks, Excise Inspector, Mangalore. 2. Krishnan Nair, Excise Peon. 3. Purusha Naika " 4. Vasu "	Accused.

I, A. C. Andrade, son of Joachim Andrade of Kavur village, Mangalore Taluk, hereby complain as follows against the above mentioned accused for offences punishable under Sections 324, and 341 I.P.C.

1. I reside with my wife and children near the Kavur Tank.

2. On last Tuesday morning (4.5.1937) at about 5.30 A.M., when I came out to the yard of my house as usual, I saw some people with torch-lights entering my house straightaway. When I obstructed them, they told me that they were Abkari people, that my house had to be searched and that the Inspector and Sub Inspector would be coming shortly. I told them that I had no objection for my house being searched, provided the Inspector came and showed me the search warrant and that they should not enter the house till then. But against my will five of them entered the house and forced my children to come out to the verandah.

3. A little later two Sub Inspectors came and told that the house had to be searched. I replied these also as before and told that they could get some witnesses and the Potail and search the house after showing the search warrant.

4. At about 7 A.M. the Inspector of Excise came to the scene with about 20 or 30 peons, some Sub Inspectors, Piad Souza, M. Shiva Shetty and my enemy Intru Monteiro. When they came one peon had a jar with him and 2 others 4 earthen pots, which they placed in the yard of my house. When I asked why they kept that in my yard, one Sub Inspector said " you are not to advise us, shut your mouth".

5. Soon after Intrue Monteiro with 4 or 5 peons and a Sub Inspector went to the Government Forest.

6. When the Inspector said that the house had to be searched I told him that if he had a search warrant he could do it in the presence of the Rotail and witnesses. Thereupon he told that if he came in person there was no need for a warrant or witnesses or the Rotail. Saying thus, he entered the house with 2 Sub Inspectors and 5 peons roaring aloud. At this juncture I asked my son to go to Kadangady and to get two persons. At this the Inspector said "None should leave the house; I have arrested you and your son". So we were placed under the custody of some peons and the search was commenced. The search continued for three-fourths of an hour, during which they searched the whole house and even dug the floor but nothing incriminating was found.

7. Then they came out and whistled, at which Intru Monteiro and his companions came from the forest with 8 bottles and 2 baskets containing dried cashews. They kept these with some copper vessels in the yard of my house.

8. I protested to the Inspector that it was most unjust to prosecute me for liquor prepared by Intru Monteiro. But the Inspector asked me to shut my mouth. Then the Inspector asked me to sign something and said that if I did so I would be let off with a small compounding fee. I said I would not give my signature unless it was read out to me and that it was not proper for a person of his position to do such unlawful things. Then one of the Sub Inspectors said, "We will see whether he signs or not, drag him to the yard." On being told thus, A2 to A4 caught hold of my hands and pulled me but I resisted, when one of the Sub Inspectors whom I do not know asked them to belabour me; and A2 to A4 beat me with their lathis and iron bars, which they had brought to dig the floor on the head, legs, hind part of the left arm and the ear with the result that my head and ear began to bleed. I was again asked to sign

but I said even if they killed me I would not do it.

9. By this time the women and children raised a cry.

10. They then tied my hands from behind with the piece of cloth that I was wearing and made me stand in the hot sun.

11. In this state they made me march and later on got a piece of cloth from my house through some person which they tied round my waist. I was then asked to sit in a car and was taken to the Excise Office at Pandeshwar where I was lodged in a room and was again asked by a Sub Inspector to sign the paper. I refused again and was therefore slapped on the face by the Sub Inspector as a result of which I --- fainted and fell down. They then brought me some coffee. At about 1.30 P.M. I was taken to the Police Station in the car, where I showed them the injuries and told that I had also a complaint. So they sent me to the hospital where I was examined.

12. I was sent to the hospital at about 7.30 having been detained till then in the lock-up. They did not take down my complaint.

13. I was removed to the Station from the hospital at about 8 or 8.30 and was released on bail.

14. A.I was present when I was treated in the above manner and he did not say a word against it. Under his orders I was also unlawfully kept under arrest with my hands tied from 8.30 to 1.30. The other accused beat me in order to force me to sign. I have, therefore, filed this complaint against all of them.

15. If under the very nose of the Excise officers such acts of injustice are to be done, it will be impossible for poor folk like us to live under the tyranny of the Excise subordinates.

I, therefore, pray that the medical certificate which

has been sent to the Police may be ordered to be produced, the accused may be summoned, the witnesses for the prosecution may be examined and the accused dealt with according to law.

16. As I had pain in the body and also fever as a result of the injuries, this complaint was delayed.

Witnesses.

1. Shiva Shetty.
2. Salvadore Silva.
3. Raul Saldanha.
4. Raid Souza.
5. Medical Officer.

(sd) A. C. Andrade.

Verification:- This complaint was dictated by me. A1 is the Inspector of Excise. A2 to A4 are Excise peons.

(sd) A. C. Andrade.

(True copy)

For Dt. Magistrate.

16.8.77

Ref. Cl.2346-M-37.

Submitted to Government.

2. The facts of the case are set out in the report dated 5.9.1937 of the Inspector of Excise, Mangalore Circle, copy of which is submitted herewith.

3. On the very day of the occurrence, the Inspector sent a report to the Station House officer, Mangalore, of what happened when the raid was conducted and requested that --- proper action may be taken against the petitioner for defying authority and assaulting public servants. The police ---- commenced investigation and eventually laid a charge sheet against the petitioner for offences punishable under sections 353 and 201 I.P.C.

4. Meanwhile on 10.5.37, six days after the occurrence the petitioner filed a complaint against the Inspector of Excise and 3 Excise peons for offences punishable under --- sections 324 and 341 I.P.C.

5. In the present petition the petitioner prays for Government sanction under Section 197 Cr.P.C. to prosecute the Inspector of Excise.

6. I submit a translation of the complaint. It will be observed that there is no allegation against the Inspector of his causing hurt to or wrongfully restraining the petitioner nor has it been alleged that the Inspector ordered his subordinates to do so.

7. The complaint does not reveal any case against the Inspector of Excise. I recommend that the sanction applied for need not be given.

South Kanara Dt. Magistrate's Office,
Mangalore, dated 14th September 1937.

For Dt. Magistrate.

To

The Secretary to Government,
Home Department,
Madras.

Revenue Department.

[Cno. 4247 B/37]

Excise Officers - Mr.F.W.Borebank. - Inspector of Excise - Criminal Prosecution.

From Mr.A.C.Andrade, dated 30-8-37.

From the Dt. Magistrate, South Kanara, Endt. No.Ref.C1.2346-M-37 dated 14-9-37.

---oo---

To Asst. Secretary.

One Mr.A.C.Andrade of Kavoor village, Mangalore taluk, South Kanara district, has applied for sanction under Section 197 of the Criminal Procedure Code, to prosecute Mr.F.W.Borebank, Inspr. of Excise for certain alleged offences committed by him in his official capacity.

2. The main facts of the case as reported by the Inspector are summarised below:-

The complainant was found in possession of 6 bottles of I.D.arrack. On a search conducted in the house of the complainant a complete still smelling I.D. of recent distillation without a perforated pot, instead of which a wet cloth could be used, was found inside the house. (Besides, this there was also a large quantity of spent wash behind the house, which indicated systematic distillation). The Inspector drew a search list on the spot which was attested by two respectable witnesses of the locality. The Inspector arrested the accused and seized all the contrabands and kept them in the front court yard of the house guarded by Sub Inspectors and peons. The accused who was seated closeby suddenly took an iron rod, rushed towards the contrabands, with one stroke broke all the 6 bottles containing the arrack and brandishing the iron rod threatened the Sub Insprs. and the peons. He hit three peons one of whom sustained visible injury. The Sub Inspectors and the peons rushed to extract the iron rod from the

accused and in the scuffle the accused fell down on the broken bottle pieces and got himself slightly scratched. The staff overpowered him and secured him. A complaint was then preferred against the accused for defying authority, destroying the ~~xnx~~ contrabands seized and of assaulting Government servants on duty. p. 11 CF

The Inspector says that neither he nor any of the staff assaulted the accused and that the compaaint preferred ~~xgxixxx~~ ~~him~~ by the accused against him and the peons ~~was~~ is false and instigated by others. He also points out that the accused ~~x~~ is an old abkari offender. p. 9 CF

The chief facts of the case as stated by the accused are as below:-

On 4-5-37, at about 7 A.M., the Inspector came to his house with 20 or 30 men. The Excise peons brought with them four mud vessels and one jar ~~x~~ and placed them in his yard. Three or four Excise peons and one Intru Monteiro (described by the accused as his enemy) who had gone to the neighbouring Govt. forest, returned at that time with 8 bottles in their hands and some dried cashew fruits in two baskets, and placed them in the yard of the ~~pr~~ accused. The Inspector then wrote something on a paper and asked him to sign it, saying that he (the Inspector) would deal with him with a very low compounding fees. The petitioner refused to sign the statement. He was thereupon caught ~~x~~ hold of by three Excise peons who tried to drag him. As the petitioner resisted, and at the instigation of one of the Sub Inspectors, the three peons beat the petitioner severely with lathis and iron rods on head, ~~x~~ ear, hand, leg etc., causing bleeding injuries on the head and ~~x~~ear. The petitioner was then taken to the Mangalore Circle Office and was locked up in a room. A Sub Inspector there again asked for his signature, and being refused, gave a slap to the petitioner who became unconscious and fell down. When he regained consciousness

p. 1 CF

Pp 2-3 CF

p. 3 CF

This is not satisfactorily dealt with in para 6 of the Inspr's report on p. 8 CF. 2

p. 3 CF

p. 4 CF

at about 1.30 P.M. he was taken to the Police Station. The Police refused to take down his complaint and sent him to the hospital at 7.30 P.M. The doctor examined his injuries and made a record of them. At 8 or 8.30 P.M. he was released on bail.

14 CF

2. It will be noticed from the above that the statements of the petitioner and the Inspector differ on material points. The District Magistrate, South Kanara says that there is no allegation against the Inspector of his causing hurt to or wrongfully restraining the petitioner nor has it been alleged that the Inspector ordered his subordinates to do so. He considers that the complaint reveals no case against the Inspector and recommends that the sanction for prosecuting the Inspector, applied for by the petitioner, need not be granted.

19 CF

3. With reference to the District Magistrate's remarks quoted in para 2 above, attention is invited to the statement of the petitioner in his complaint to the effect that it was under the Inspr.'s orders that the (the petitioner) was unlawfully kept under arrest with his hands tied from 8.30 to 1.30. The petitioner has also stated that the Inspector was present when he was being assaulted by his subordinates and that he did not say a word against the treatment accorded to the petitioner.

Para 14 at p. 17 CF

4. In the circumstances set forth above, it is for consideration whether the sanction applied for will be granted. The remarks of the Board of Rev. may be called for in the first instance. Subject to orders, a draft endt. is submitted for approval.

Note: Certain charges framed against Mr. Webb in connection with his work in the Bellampur circle. We may under reserve to the Commission the question of his liability.

SN 27.9.37.

Recommend 4247 B/37-1 27/9/37

28.5.37 Home should see before issue of the draft

J Home

28/9

24 4

Home

Bombay Govt to be informed of the action taken.

Revenue. BBS 29/9

S

If Rev can see no objection Home will issue the order at once — the D.M. has stated the facts & sanction may be referred at once

A

HB. 6/10

90

D 29/9

RUSSTB 7.10.37

Rev

Bombay W.O. 15338D 6.10.37

Rev. Dept

Home Secy presumably connects at conference to obtain the remarks of the Board of Rev. This Dept need not object to the suggestion at A above. The file may be transferred to Home

7.10.37

SS 16284 D 8/10

Rev. Notn. 4247 B/37 7.10.37

Home

Box #D(2)

25/6

Home Dept

Cpo. 1638 2 D

RS

Draft order sealed

BB 12/10

S

√T

Bom 13.10.37

M Cpo

M(agri. & RD)

HE

Draft for approval

The Ot Magistrate has been asked the matter & his report is sufficient reason & upon sanction

HE 18.10

M CPP 14.10.37

M RD 15.10.37

HE E. 19.10.37

Draft ltr to Govt forwarding 20/10.

C.F. 16.

DRAFT FOR APPROVAL.

Home Dept.

39/20 Date. Initials.

When received for fair copying ..		
When copied ..	20-10-37	
When examined ..		
When signed ..		
When despatched.		

SUBJECT:— Prosecution - Circle Inspector of Excise, Mangalore - Sanction of Govt. - Refused

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ ALSO:— From Mr. R.C. Andrade - Kavoor Village Dt 30-8-37 p1cs

No. 13780/3 From the S.M. South Kanara End. No. Rel.C1. 23446-14-37, dated 14.9.37 19 p1cs.

_____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order / ~~Resolution~~ Ms. ~~Rout.~~ No. 4212, dated 20/10 19 37.

The Govt. of Madras decline to accord sanction to prosecute Lieut. F.W. Borbank, Circle Inspector of Excise, Mangalore for the offences alleged to have been committed by him

Dpd. by Van / Post / ~~Messenger~~

Dpr.' [illegible]

Date 21/10 193 .

To

The petitioner (A'cy p1cs) (20/10)

The S.M. South Kanara (2cys) (20.10.37 / 21.10)

Copy to the Rev. Dept (2cys)

27

Is not the a matter for the Home Dept to deal with ?

1.10

Submitted that Orders will issue in this department after the administrative department (the Revenue Department in this case) has noted on the case of case in G.O.No.2511 Home dated 2-7-37 in which the Revenue department noted that there was no need for a sanction under sec.197 Cr.P.C. and transferred the case to this department for issue of orders. In this case it is proposed by Rev. to call for the remarks of the Board of Revenue.

Yes

Yes is it nec to do so ?